

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Cagle, et al.

Serial No.: 10/715,055

Confirmation No.: 3314

Filed: November 17, 2003

Examiner: Fay, Zohreh A.

Group Art Unit: 1618

For: METHOD OF TREATING OPHTHALMIC INFECTIONS WITH  
MOXIFLOXACIN COMPOSITIONS

**TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(b) and (c)**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Alcon, Inc. is the owner of the entire interest in the above-identified patent application and related United States Patent No. 6,395,746. The title history of the present application and the above-cited patent is explained below.

The present application is a continuation of U.S. Patent Application Serial No. 10/200,868 filed on July 22, 2002 (now U.S. Patent No. 6,716,830), which is a continuation of U.S. Patent Application Serial No. 09/646,797 filed on September 22, 2000 (now abandoned), which is a 371 of PCT/US99/22622 filed on September 29, 1999, which claims benefit of Provisional Application Serial Nos. 60/102,504 and 60/102,506 filed on September 30, 1998. An assignment from the inventors to Alcon Laboratories, Inc. as recorded at Reel 011165, Frame 0091. An assignment from Alcon Laboratories, Inc. to Alcon Manufacturing, Ltd. was recorded at Reel 011667, Frame 0559. An assignment from Alcon Manufacturing, Ltd. to Alcon, Inc. was recorded at Reel 014037, Frame 0935.

U.S. Patent No. 6,395,746 issued from U.S. Patent Application Serial No. 09/646,799 filed on September 22, 2000, which is a 371 of PCT/US99/22624 filed on September 29, 1999, which claims benefit of U.S. Provisional Application Serial Nos. 60/102,508 and 60/102,509 filed on September 30, 1998. An assignment from inventors to Alcon Laboratories, Inc. was recorded at Reel 011183, Frame 0004. An assignment from Alcon Laboratories, Inc. to Alcon Manufacturing, Ltd. was recorded at Reel 011667, Frame 0559. An assignment from Alcon Manufacturing, Ltd. to Alcon, Inc. was recorded at Reel 018171, Frame 0925.

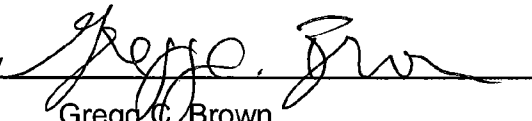
Alcon hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of U.S. Patent No. 6,395,746 (referred to hereinafter as the "Related Patent"). Alcon hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the Related Patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Alcon does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the Related Patent, as presently shortened by any terminal disclaimer, in the event that the Related Patent subsequently: (1) expires for failure to pay a maintenance fee, (2) is held unenforceable, (3) is found invalid by a court of competent jurisdiction, (4) is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, (5) has all claims canceled by a reexamination certificate, (6) is reissued, or (7) is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date 8/30/06

Respectfully submitted,  
ALCON, INC.

By   
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